

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3842 of 1997

to

FIRST APPEAL No 3843 of 1997

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

ISMAILBHAI PIRABHAI MANSURI

Appearance:

MS HARSHA DEVANI, AGP, for appellants.

MR GH BHATT for the respondents.

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 27/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. Heard the learned counsel for the respective

parties. Appeals admitted. Mr. G.H. Bhatt waives service for the respondents-original claimants.

2. On the joint request of learned counsel for the respective parties these appeals are taken up for final hearing today.

3. These are appeals filed by the appellant State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

4. The lands under acquisition were acquired for the Guhai Reservoir Scheme under a notification issued under section 4 of the said Act dated 26th July 1990. The land holders-original claimants not being satisfied with the award of the Land Acquisition Officer, preferred References under section 18 of the said Act, which came to be heard and decided by the Reference Court, which determined the market value of the acquired lands at Rs.700/- per Are (for irrigated lands).

5. In this context learned counsel for the appellants has in all fairness drawn our attention to earlier acquisitions for the very same project, which came to be decided by different Benches of this Court.

6. Other lands in the same village viz. Savli, Taluka Idar, District Sabarkanta were acquired under an earlier notification under section 4 dated 27th May 1982. In that case the Reference Court in its judgement and awards under section 18 determined the market value of the acquired lands (irrigated lands) at the rate of Rs.678 per Are. This decision was challenged by the State in appeals to this court, being First Appeal Nos.1119/90 to 1129/90, which came to be heard and decided by an earlier Bench (Coram: B.S. Kapadia and V.H. Bhairavia JJ.), by their judgement and order dated 20th August 1990, whereby the appeals filed by the State were dismissed and the market value as determined by the Reference Court at Rs.678/- was confirmed. The aforesaid decision of the said Bench has also been followed by this very Bench in another group of appeals viz. First Appeal Nos.818/90 to 882/90, decided on 5th February 1998, also confirming the market value of Rs.678/- per Are, in the context of the very same earlier notification under section 4 dated 27th May 1982.

7. Looking to the facts and circumstances of the case, we are satisfied that the impugned judgement and

awards do not merit any interference in these appeals. The impugned judgement, taken in its overall perspective, is, in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, the conclusions drawn therefrom and the findings of fact recorded.

8. Even otherwise if we make only a moderate allowance for the difference in the dates of the respective notifications under section 4, we find that in the instant case the date of publication of the notification under section 4 is dated 26th July 1990 i.e. after almost 8 years. In this context the increase in the determination of the market value from Rs.678/- per Are to Rs.700/- per Are in respect of the irrigated land is at best modest and conservative. In our opinion, therefore, looking to the facts of the case, this determination of the market value on the part of the Reference Court cannot in any manner be said to be excessive so as to justify any interference in the present appeals.

9. These appeals are, therefore, dismissed with no order as to costs.
